Mandatory Findings of Significance
Chapter 3.18

SUMMARY OF FINDINGS

The direct impacts from the Project's potential odor emissions and odor impacts to sensitive receptors are insignificant. Combined with the adjacent dairy's odors, the cumulative impacts from this Project will impact nearby humans resulting in a Mandatory Finding of Significance, which is significant and unavoidable. The remaining cumulative impacts associated with the Project are discussed in Section 4. The analyses contained in this environmental document demonstrate that there are no other impacts that will substantially degrade the quality of the environment, or impact sensitive species, or have significant cultural impacts requiring a mandatory finding of significance.

INTRODUCTION

California Environmental Quality Act (CEQA) Requirements

CEQA Guidelines "Mandatory Findings of Significance" (Section 15065(a)) lists the following potential impacts that need to be addressed by a lead agency:

> 15065(a): *"A lead agency shall find that a project may have a significant effect on the environment and thereby require an EIR to be prepared for the project where there is substantial evidence, in light of the whole record, that any of the following conditions may occur:*
>
> > *(1) The project has the potential to: substantially degrade the quality of the environment; substantially reduce the habitat of a fish or wildlife species; cause a fish or wildlife population to drop below self-sustaining levels; threaten to eliminate a plant or animal community; substantially reduce the number or restrict the range of an endangered, rare or threatened species; or eliminate important examples of the major periods of California history or prehistory.*
> >
> > *(2) The project has the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals.*
> >
> > *(3) The project has possible environmental effects that are individually limited but cumulatively considerable. "Cumulatively considerable" means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.*

(4) The environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly."

Under the California Environmental Quality Act (CEQA), an EIR must be prepared when certain specified impacts may result from construction or implementation/operation of a project. An EIR has been prepared for the proposed Project, which fully addresses all of the Mandatory Findings of Significance, as described below.

Under Section 15065(a) of the CEQA Guidelines, a finding of significance is required if a project "has the potential to substantially degrade the quality of the environment." In practice, this is the same standard as a significant effect on the environment, which is defined in Section 15382 of the CEQA Guidelines as "a substantial or potentially substantial adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance." This EIR, in its entirety, addresses and discloses potential environmental affects associated with construction and operation of the proposed Project, including direct, indirect, and cumulative impacts in the following resource areas:

- Aesthetics
- Air Quality
- Biological Resources
- Cultural Resources
- Geology and Soils
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning
- Noise
- Population and Housing
- Public Services
- Recreation
- Transportation/Traffic
- Utilities and Service Systems

As summarized in Project Requirements/Mitigation Measures Section, this EIR discusses potential environmental resource impacts, the level of significance prior to mitigation, project requirements that are otherwise required by law or are incorporated as part of the project description, feasible mitigation measures, and the level of significance after the incorporation of mitigation measures.

This section of the Draft Environmental Impact Report (DEIR) meets CEQA requirements by making mandatory findings of significance relative to impacts of the proposed Project site, located in the San Joaquin Valley portion of Tulare County. The "Environmental Setting" section summarizes environmental resources in the region, with special emphasis on the proposed Project site and vicinity. The "Regulatory Setting" provides a description of applicable State and local regulatory policies. A description of the potential impacts of the proposed project

is also provided and includes the identification of feasible mitigation to avoid or lessen the impacts.

Long Term Impacts

As described in Section 15065(a)(2), a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals. This document addresses the short-term and irretrievable commitment of natural resources to ensure that the consumption is justified on a long-term basis.

Cumulative Impacts

Under Section 15065(a)(1) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has the potential to (1) substantially reduce the habitat of a fish or wildlife species; (2) cause a fish or wildlife population to drop below self-sustaining levels; or (3) substantially reduce the number or restrict the range of an endangered, rare, or threatened species. Section 4.3 (Biological Resources) of the EIR fully addresses impacts related to the reduction of the fish or wildlife habitat, the reduction of fish or wildlife populations, and the reduction or restriction of the range of special-status species.

Impacts to Species

Section 15065(a)(1) of the CEQA Guidelines states that a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has the potential to eliminate important examples of a major period of California history or prehistory. Section 15065(a)(1) amplifies Public Resources Code 21001(c) requiring that major periods of California history are preserved for future generations. It also reflects the provisions of Public Resource Code Section 21084.1 requiring a finding of significance for substantial adverse changes to historical resources.

Impacts to Historical Resources

Section 15064.5 of the CEQA Guidelines establishes standards for determining the significance of impacts to historical resources and archaeological sites that are an historical resource. Section 4.4 (Cultural Resources) of this EIR (which is supported by a Cultural Resources Technical Report) fully addresses impacts related to California history and prehistory, historic resources, archaeological resources, and paleontological resources.

Impacts on Human Beings

Consistent with Section 15065(a)(4) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has the potential to cause substantial adverse effects on human beings, either directly

or indirectly. Under this standard, a change to the physical environment that might otherwise be minor must be treated as significant if people will be significantly affected. This factor relates to adverse changes to the environment of human beings generally, and not to effects on particular individuals. While changes to the environment that could indirectly affect human beings will be represented by all of the designated CEQA issue areas, those that could directly affect human beings include air quality, geology and soils, hazards and hazardous materials, hydrology and water quality, noise, population and housing, public services, transportation/traffic, and utilities, which are addressed in this EIR.

Thresholds of Significance

The geographical area may be countywide, statewide, or nationwide, depending on the nature of the impact. Thresholds of Significance for impacts to biological resources are addressed in detail in Chapter 3.4. of this document. Thresholds of Significance for impacts to cultural resources, including impacts to historic and prehistoric resources, are addressed in Chapter 3.5 of this document.

ENVIRONMENTAL SETTING

"Tulare County… is located in a geographically diverse region with the majestic peaks of the Sierra Nevada framing its eastern region, while its western portion includes the San Joaquin valley floor, which is very fertile and extensively cultivated. Tulare County is the second-leading agricultural-producing county in the U.S. Fresno County is currently (2004) the top producer. In addition to its agricultural production, the county's economic base also includes agricultural packing and shipping operations."[1]

"The project site is located in a region of California having a Mediterranean climate. Summers are dry and typically quite warm with daytime temperatures commonly exceeding 100^{o} Fahrenheit. Winters are rainy and cool with daytime temperatures rarely exceeding 65o Fahrenheit. Annual precipitation in the general vicinity of the project site is highly variable from year to year with a mean annual rainfall of approximately 12 inches, most of which falls between the months of October and March. Virtually all precipitation falls in the form of rain. Stormwater infiltrates onsite soils and, when field capacity is reached, surface runoff is collected in the onsite drainage basin" [2]

The native vegetation of the Valley is predominately characterized by the purple needlegrass series, valley oak series, vernal pools and wetland communities, and blue oak series. Fauna associated with this section include mule deer (Odocoileus hemionus), black-tailed deer (Odocoileus hemionus columbianus), coyotes (Canis latrans), white-tailed jackrabbits (Lepus townsendii), kangaroo rats (Dipodomys ingens), kit fox (Vulpes macrotis), and muskrats (Ondatra Zibethicus). Birds include waterfowl, hawks, golden eagles (Aquila chrysaetos), owls,

[1] General Plan Background Report, page 1-2
[2] Live Oak Associates, Biological Report, page 4

white-tailed kites (Elanus leucurus), herons, western meadowlark (Sturnella neglecta) and California quail (Callipepla californica).[3]

REGULATORY SETTING

Federal Agencies & Regulations

See Chapters 3.4 and 3.5 of this document for federal regulations related to biological and cultural resources.

State Agencies & Regulations

See Chapters 3.4 and 3.5 of this document for state regulations related to biological and cultural resources.

Local Policy & Regulations

See Chapters 3.4 and 3.5 of this document for local regulations related to biological and cultural resources.

[3] General Plan Background Report, page 9-10

IMPACT EVALUATION

Will the project:

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

Findings, Impacts to Biological Resources

Project Impact Analysis: ***No Impact***

Chapter 3.4, Biological Resources, addresses potential impacts to biological resources. A biological analysis of the Project site conducted by Live Oaks Associates concluded that the site is an intensely disturbed landscape devoid of natural habitat, wetlands, foraging areas, or movement corridors thus eliminating the potential for impacts to biological species. Therefore, no mitigation measures are required. Specific conclusions were as follows:

- There will be no loss of habitat or direct impact to special status animals will occur; therefore, no mitigations are warranted (3.4-a).

- There are no impacts to riparian or other sensitive habitats on or adjacent to the project site; therefore no mitigation measures are required (3.4-b)

- No federally protected wetlands on site. There are no project-related impacts and therefore no mitigation measures are required (3.4-c).

- The project will not result in harmful effects on regional fish or wildlife movements. Therefore, no mitigation measures are needed (3.4-d).

- There are no impacts to biological resources, and therefore there is no conflict with local policies or ordinances designed to protect biological resources (3.4-e).

Cumulative Impact Analysis: ***No Impact***

The geographic area of this cumulative analysis is the San Joaquin Valley, the State of California, and the Western United States. As noted in Chapter 3.4, there will be no cumulative impacts related to biological resources.

Mitigation Measures:

None Required.

Conclusion: ***No Impact***

No impact to biological resources would result from the proposed Project. No Mitigation Measures for biological resources are required.

Findings, Impacts to Cultural Resources

Project Impact Analysis: ***Less than Significant Impact with Mitigation***

Chapter 3.5, Cultural Resources, discusses impacts to historic or prehistoric resources in depth. No significant cultural resources were identified within ½ mile of the Project site as a result of a records search conducted by the Southern San Joaquin Valley Information Center, or by a field survey of the site performed by a qualified professional archaeologist (Kristina Roper, November 2012). However, mitigation measures 3.5-1, 3.5-2, and 3.5-3 are included to address the potential of cultural resources being unearthed as a result of Project-related ground excavation. In addition, mitigation measures were added in the unlikely event that human remains are unearthed during Project-related ground excavation.

Cumulative Impact Analysis: ***Less than Significant Impact with Mitigation***

The geographic area of this cumulative analysis is Tulare County.

The proposed Project would only contribute to cumulative impacts related to this checklist item if project specific impacts were to occur. As the proposed Project would be mitigated to a level considered less than significant, cumulative impacts would also be considered less than significant with mitigation.

Mitigation Measures:

See mitigation measures 3.5-1, 3.5-2, and 3.5-3.

Conclusion: ***Less than Significant Impact with Mitigation***

With implementation of the above mentioned mitigation measure(s), potential project specific and cumulative impacts related to this checklist item will be reduced level considered less than significant.

b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

Cumulative Analysis: ***See Chapter 4***

"CEQA Guidelines Section 15130(a) requires that an EIR discuss the cumulative impacts of a project when the project's incremental effect is "cumulatively considerable," meaning that the project's incremental effects are considerable when viewed in connection with the effects of past, current, and probable future projects. A consideration of actions included as part of a cumulative impact scenario can vary by geographic extent, time frame, and scale. They are defined according to environmental resource issue and the specific significance level associated with potential impacts. CEQA Guidelines 15130(b) requires that discussions of cumulative impacts reflect the severity of the impacts and their likelihood of occurrence. The CEQA Guidelines note that the cumulative impacts discussion does not need to provide as much detail as is provided in the analysis of project-only impacts and should be guided by the standards of practicality and reasonableness and focus on the cumulative impact to which the identified other projects contribute rather than the attributes of other projects which do not contribute to the cumulative impacts."[4]

Cumulative impacts for biological and cultural resources are discussed within Chapters 3.4 and 3.5, respectively.

Conclusion for Cumulative Impacts to Biological Resources (Chapter 3.4): ***No Impact***

There are no project related or cumulative impacts, and therefore no mitigation measures are required.

Conclusion for Cumulative Impacts to Cultural Resources (Chapter 3.5): ***Less than Significant Impact with Mitigation***

With implementation of mitigation measures 3.5-1, 3.5-2 and 3.5-3, potential project specific and cumulative impacts related to this checklist item will be reduced level considered less than significant.

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

Project Impact Analysis: ***Less than Significant Impact***

The Project will not directly result in significant environmental effects to the listed resources above, which will cause substantial adverse effects on human beings, either directly or

[4] Tulare County 2030 General Plan RDEIR, pages 5-3 to 5-4

indirectly. The Project will not generate any emissions that exceed the Air District's air quality thresholds of significance. The existing operations on the Project site currently results in composting facility odors that are mitigated by the Odor Impact Management Plan as required by CalRecycle.

In the Air District's comment letter to the Notice of Preparation (Nov. 1, 2012), indicated that the Project should be evaluated "to determine the likelihood that the Project may result in nuisance odors. According to the Air District, nuisance odors are subjective; as such the Air District does not have established thresholds of significance for nuisance odors. Nuisance odors may be assessed qualitatively taking into consideration the project design elements and proximity to off-site receptors that potentially will be exposed [to] objectionable odors."[5]

The Air District's Guide to Assessing and Mitigating Air Quality Impacts (GAMAQI) states that an evaluation "should be conducted for both of the following situations: 1) a potential source of objectionable odors is proposed for a location near existing sensitive receptors, and 2) sensitive receptors are proposed to be located near an existing source of objectionable odors."[6] The criteria for this evaluation are based on the Lead Agency's determination of the proximity between the proposed project and the sensitive receptors. The Air District identifies a sensitive receptor as a location where human populations, especially children, senior citizens and sick persons, are present; and where there is a reasonable expectation of continuous human exposure to pollutants, according to the averaging period for ambient air quality standards (i.e., the 24-hour, 8-hour, or 1-hour standards). It should be noted; however, that commercial and industrial sources are not considered sensitive receptors. As shown in **Table 3.18-1**, there are sensitive receptors that are within a two mile radius to the Project site which could potentially be affected by odors.

"Additionally, TCCB [Harvest Power] currently operates under an Odor Impact Mitigation Plan (OIMP) to comply with the CalRecycle Full Composting Facility permit. The OIMP focuses on processes to prevent odor from migrating off site during the feedstock delivery, composting and curing phases and the protocol to deal with odor issues if they do arise. The processes include mixing any food materials with green materials immediately upon arrival at the site, and incorporating them into the compost windrows as soon as possible, within a maximum of 36 hours. Watering and turning regimes increase the temperature and speed of the breakdown of the material in the windrows, diminishing odor. A specific protocol for neighbor notification and response to neighbor issues is also included in the OIMP. The anaerobic digestion facility is designed with a biofilter to ensure that no offensive odor migrates off site.

Therefore, based on the predicted emissions from the project and the OIMP, the project is not anticipated to have a significant impact on any known sensitive receptor."[7]

[5] SJVAPCD Comment Letter to NOP, Nov. 1, 2012 (See Appendix A)
[6] SJVAPCD Guide to Assessing and Mitigating Air Quality Impacts, page 50
[7] Air Quality Impact Analysis, page 28

Based on the emissions impacts expected, the proposed project is not expected to affect sensitive receptors. As noted earlier, sensitive receptors are defined as areas where young children, chronically ill individuals, the elderly or people who are more sensitive than the general population reside. Schools, hospitals, nursing homes and daycare centers are locations where sensitive receptors will likely reside. Sensitive receptors less than one-mile from the project site are listed in **Table 3.18-1**.

Table 3.18-1
Sensitive Receptors Located ≤ 6 Miles from Project

Receptor	Type of Facility	Distance from Project (miles)	Direction from Project
Sundale Elementary School	Public K-8	0.51	SE
Sundale Preschool	Preschool	0.51	SE

Source: Air Quality Impact Analysis

Additionally, Harvest Power currently operates under an Odor Impact Mitigation Plan (OIMP) to comply with their CalRecycle Full Composting Facility permit. The OIMP focuses on processes to prevent odor from migrating off site during the feedstock delivery, composting and curing phases, and the protocol to abate odor should it occur. The processes include mixing any food materials with green materials immediately upon arrival at the site, and incorporating them into the compost windrows as soon as possible, within a maximum of 36 hours. Watering and turning regimes increase the temperature and speed of the breakdown of the material in the windrows, diminishing odor. A specific protocol for neighbor notification and response to neighbor concerns is also included. The anaerobic digestion facility is designed with a bio-filter to eliminate the potential for odor to migrate off site.

Therefore, based on the estimated emissions from the Project and the OIMP, the Project is not anticipated to have significant impacts on any known sensitive receptors.

Cumulative Impact Analysis: ***Significant and Unavoidable Impact***

The geographic area of this cumulative analysis is Tulare County. This cumulative analysis is based on the information provided in the Tulare County 2030 General Plan, General Plan background Report, and/or Tulare County 2030 General Plan EIR. The odors that are currently emitted from composting facilities are considered significant. The potential odors from this facility plus odors from other sources (such as an adjacent dairy) are cumulatively unavoidable despite implementation of an OIMP as required by CalRecycle at the facility. To date, Harvest Power has complied with the OIMP and CalRecycle's Local Enforcement Agency has not issued any violations or compliance orders for the facility. However; when combined, the odors generated by the existing dairy and the Project may cumulatively result in a nuisance. As a result of this impact being unavoidable, even with the implementation of Mitigation Measures, the public benefits of the project (such as benefits to air quality,

conversion of waste materials to re-useable energy, and reduction of waste streams to local landfills) outweigh this isolated impact to the environment.

Mitigation Measures:

3.18-1 Update the Odor Impact Management Plan required by Cal Recycle at the facility to maintain its effectiveness with the Project's increase in the tonnage processed and differing digestion material.

Conclusion: ***Significant and Unavoidable Impact***

The Project's direct odor impacts are insignificant, and do not directly impact sensitive receptors. However, the Project (and the adjacent dairy) odor emissions will cumulatively add to a potentially significant and unavoidable impact to any neighboring uses, including the school even with an OIMP in place.

DEFINITIONS/ACRONYMS

Definitions

See Chapters 3.4 and 3.5 of this document for definitions related to biological and cultural resources.

Acronyms

(GAMAQI)	Air District's Guide to Assessing and Mitigating Air Quality Impacts
(OIMP)	Odor Impact Mitigation Plan

See Chapters 3.4 and 3.5 of this document for acronyms related to biological and cultural resources.

REFERENCES

Tulare County 2030 General Plan, August 2012

Tulare County 2030 General Plan: Recirculated Draft EIR, February 2010

Harvest Power Air Quality Impact Analysis, September 2012

SJVAPCD Comment Letter to NOP, November 2012

Hartesveldt, David and Gurule, Jeff, Live Oaks Associates, Inc., "Harvest Power Tulare Project: Biological Evaluation, Tulare County, California, November 2012

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